IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 25.09.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Habeas Corpus Petition No.749 of 2006

Vijaya ... Petitioner

vs.

1. The State of Tamil Nadu
rep. by its Secretary,
Prohibition & Excise Department,
Fort St. George,
Chennai-600 009.

2. The Commissioner of Police,
Greater Chennai. ... Respondents

For Petitioner : Mr.V.Perarasu
For Respondents : Mr.M.Babu Muthu Meeran,
Additional Public Prosecutor.

Petition under Article 226 of the Constitution of India for the issuance of writ of habeas corpus to call for the records relating to the detention order passed by the second respondent dated 13.02.2006 in Memo No.51/BDFGISV/2006 against the petitioner's son/detenu Kumar, S/o Munusamy, aged about 25 years, who is now confined at Central Prison, Chennai and set aside the same and direct the respondents to produce him before this Court and set him at liberty.

O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner, who is the mother of the detenu by name Kumar, who is detained as a "Goonda" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 13.02.2006, challenges the same in this petition.

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2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. Learned counsel for the petitioner by taking us through the booklet, particularly various statements/documents available at page Nos. 36, 37, 62, 65, 75 to 80, 87, 95 and 102, pointed out certain infirmities/discrepancies with reference to the time and date of occurrence, arrest etc.

4. In view of the claim made by the learned counsel for the petitioner, we verified all those details. Though we are not under-estimating the argument of the learned counsel for the petitioner, we are of the view that those aspects have to be considered only at the time of trial of the respective case. It is not the claim of the learned counsel for the petitioner that no material was available before the detaining authority for passing the order of detention. On the other hand, the grounds of detention show that the detenu had seven previous cases to his credit, out of which, he was convicted in three cases. Apart from the seven adverse cases, the detenu had also involved in the ground case occurrence, based on which, he was detained under Tamil Nadu Act 14 of 1982. Except pointing out certain infirmities here and there, which are trivial in nature, no major irregularity/infirmity was pointed out either with regard to the passing of the detention order or infringement of the constitutional protection provided under Article 22(5) of the Constitution of India. Inasmuch as the detaining authority, only after considering the seven adverse cases and the materials with regard to the ground case occurrence and after arriving at a subjective satisfaction, clamped the order of detention, in the absence of any acceptable material for interference, we are of the view, that by going into the trivial discrepancies in respect of adverse cases, this Court cannot interfere and act as an appellate Court. Accordingly, we reject the first contention.

4. Finally, the learned counsel for the petitioner submitted that the documents available at page Nos.100, 101 and 102 of the booklet supplied to the detenu are not readable and legible. In view of the same, we verified all those documents. We are satisfied that the documents are readable and legible. Accordingly, we reject the said contention. In view of what is stated above, we do not find any valid ground for interference. Accordingly, this Habeas Corpus Petition is dismissed.

Gms

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Asst. Registrar

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Sub Asst.Registrar

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gms

To

1. The Secretary,Prohibition & Excise Department,
   Fort St. George, Chennai-600 009.

2. The Commissioner of Police,
   Greater Chennai.

3. The Superintendent, Central Prison, Chennai.
   (In duplicate for communication to detenu)

4. The Joint Secretary to Government,
   Public (Law and Order), Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

PV (CO)
RSM/9.10.2006

HCP. No.No.749 of 2006

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